

2026 SESSION

INTRODUCED

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1 **HOUSE BILL NO. 774**

2 Offered January 14, 2026

3 Prefiled January 13, 2026

4 *A BILL to amend and reenact §§ 24.2-653.01 and 24.2-709.1 of the Code of Virginia, relating to elections;*
5 *absentee and provisional ballots; cure process.*

6 Patron—Thornton

7
8 Committee Referral Pending
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10 **Be it enacted by the General Assembly of Virginia:**

11 **1. That §§ 24.2-653.01 and 24.2-709.1 of the Code of Virginia are amended and reenacted as follows:**

12 **§ 24.2-653.01. Provisional ballots; electoral boards to make determination as to validity.**

13 A. The electoral board shall meet on the day following the election and determine whether each person
14 having submitted a provisional vote pursuant to § 24.2-653 was entitled to do so as a qualified voter in the
15 precinct in which he offered the provisional vote. In the case of persons voting provisionally pursuant to
16 § 24.2-653.3, the electoral board shall determine of which district the person is a qualified voter. At the
17 meeting, the voter may request an extension of the determination of the provisional vote in order to provide
18 information to prove that the voter is entitled to vote in the precinct pursuant to § 24.2-401. The electoral
19 board shall have the authority to grant such extensions that it deems reasonable to determine the status of a
20 provisional vote.

21 If the board is unable to determine the validity of all the provisional ballots offered in the election, or has
22 granted any voter who has offered a provisional ballot an extension, the meeting shall stand adjourned, not to
23 exceed 10 calendar days from the date of the election, until the board has determined the validity of all
24 provisional ballots offered in the election.

25 B. The electoral board shall permit one authorized representative of each political party or independent
26 candidate in a general or special election or one authorized representative of each candidate in a primary
27 election to remain in the room in which the determination is being made as an observer so long as he does not
28 participate in the proceedings and does not impede the orderly conduct of the determination. Each authorized
29 representative shall be a qualified voter of any jurisdiction of the Commonwealth. Each representative, who is
30 not himself a candidate or party chairman, shall present to the electoral board a written statement designating
31 him to be a representative of the party or candidate and signed by the county or city chairman of his political
32 party, the independent candidate, or the primary candidate, as appropriate. If the county or city chairman is
33 unavailable to sign such a written designation, such a designation may be made by the state or district
34 chairman of the political party. However, no written designation made by a state or district chairman shall
35 take precedence over a written designation made by the county or city chairman. Such statement, bearing the
36 chairman's or candidate's original signature, may be photocopied and such photocopy shall be as valid as if
37 the copy had been signed.

38 Notwithstanding the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.),
39 attendance at meetings of the electoral board to determine the validity of provisional ballots shall be
40 permitted only for the authorized representatives provided for in this subsection, for the persons whose
41 provisional votes are being considered and their representative or legal counsel, and for appropriate staff and
42 legal counsel for the electoral board.

43 C. If the electoral board determines that such a person having submitted a provisional vote pursuant to
44 § 24.2-653 was not entitled to vote as a qualified voter in the precinct or district in which he offered the
45 provisional vote, is unable to determine his right to vote, or has not been provided one of the forms of
46 identification specified in subsection B of § 24.2-643, or the signed statement that the voter is the named
47 registered voter he claims to be, the envelope containing his ballot shall not be opened and his vote shall not
48 be counted. *If the electoral board determines that such person was not entitled to vote as a result of a*
49 *material error or omission on the provisional ballot form, the registrar shall promptly notify the voter in*
50 *writing or by email of the error or omission and shall provide information to the voter on how to correct the*
51 *issue so his ballot may be counted. The voter shall be entitled to make such necessary corrections before*
52 *noon on the Monday after the election, and his ballot shall then be counted pursuant to the procedures set*
53 *forth in this section if he is found to be entitled to vote.* The general registrar shall notify in writing pursuant
54 to § 24.2-114 those persons found not properly registered or whose provisional vote was not counted.

55 The provisional vote shall be counted if (i) such person is entitled to vote in the precinct pursuant to
56 § 24.2-401 or (ii) the Department of Elections or the voter presents proof that indicates the voter submitted an
57 application for registration to a state-designated voter registration agency or the voter's information was
58 transmitted by the Department of Motor Vehicles to the Department of Elections pursuant to § 24.2-411.3

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59 prior to the close of registration pursuant to § 24.2-416 and the registrar determines that the person was
60 qualified for registration based upon the application for registration submitted by the person pursuant to
61 subsection B of § 24.2-652.

62 If the electoral board determines that such person was entitled to vote, the name of the voter shall be
63 entered in a provisional votes pollbook and marked as having voted, the envelope shall be opened, and the
64 ballot shall be placed in a ballot container without any inspection further than that provided for in § 24.2-646.

65 D. On completion of its determination, the electoral board shall proceed to count such ballots and certify
66 the results of its count. Its certified results shall be added to those found pursuant to § 24.2-671. No
67 adjustment shall be made to the statement of results for the precinct in which the person offered to vote.
68 However, any voter who cast a provisional ballot and is determined by the electoral board to have been
69 entitled to vote shall have his name included on the list of persons who voted that is submitted to the
70 Department of Elections pursuant to § 24.2-406.

71 E. The certification of the results of the count together with all ballots and envelopes, whether open or
72 unopened, and other related material shall be delivered by the electoral board to the clerk of the circuit court
73 and retained by him as provided for in §§ 24.2-668 and 24.2-669.

74 **§ 24.2-709.1. Processing returned absentee ballots before election day; cure process.**

75 A. On receipt of an absentee ballot returned in person or by mail to the office of the general registrar or to
76 a drop-off location before election day, the general registrar shall mark the date of receipt in the voter's record
77 and shall examine the ballot envelope to verify completion of the required voter affirmation. A voter
78 affirmation statement shall not be deemed to be incomplete on the sole basis of the voter's failure to provide
79 (i) his full name or his middle initial, as long as the voter provided his full first and last name, or (ii) the date,
80 or any part of the date, including the year, on which he signed the statement.

81 B. If the voter affirmation has been completed as required, the general registrar may open the sealed ballot
82 envelope and insert the ballot in optical scan counting equipment or other secure ballot container without
83 initiating any ballot count totals. If a general registrar does not choose to do so, the sealed ballot envelope
84 shall be deposited into a secure container provided for such purpose, in which it shall remain until the general
85 registrar initiates the process of opening the sealed ballot envelopes deposited into the secure container and
86 inserting such ballots into optical scan counting equipment without initiating any ballot count totals. Such
87 process shall be at the general registrar's discretion at any time prior to the seventh day immediately
88 preceding the election but shall be mandatory beginning on the seventh day immediately preceding the
89 election.

90 At least two officers of election, one representing each political party, shall be present during all hours
91 when sealed ballot envelopes are opened as authorized in or required by this subsection. No person present
92 while sealed ballot envelopes are opened and ballots are inserted into counting equipment shall disclose any
93 information concerning the ballots.

94 In the event that circumstances prevent a general registrar from complying with the provisions of this
95 subsection, such failure shall not be grounds for contesting the election pursuant to Article 2 (§ 24.2-803 et
96 seq.) of Chapter 8 and shall not invalidate the absentee ballots.

97 C. For any absentee ballot received by the Friday immediately preceding the day of the election, if the
98 general registrar finds during the examination of the ballot envelope that the required voter affirmation was
99 not correctly or completely filled out or that a procedure required by § 24.2-707 was not properly followed,
100 and such error or failure would render the ballot void by law, the general registrar shall enter into the voter's
101 record in the voter registration system that the absentee ballot has an issue requiring correction in order for it
102 to be counted. This information shall be included on any absentee voter applicant list provided pursuant to
103 subsection C of § 24.2-710.

104 Within three days of such finding, the registrar shall notify the voter in writing or by email of the error or
105 failure and shall provide information to the voter on how to correct the issue so his ballot may be counted.
106 The voter shall be entitled to make such necessary corrections before noon on the *third day Monday* after the
107 election, and his ballot shall then be counted pursuant to the procedures set forth in this chapter if he is found
108 to be entitled to vote. No absentee ballot needing correction shall be delivered to the officers of election at the
109 appropriate precinct until the voter is provided the opportunity to make the necessary corrections pursuant to
110 this subsection.

111 The general registrar may issue a new absentee ballot to the voter if necessary and shall preserve the first
112 ballot with other spoiled ballots.